

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

PATRICK J. LEIGHTON
Erie, Pennsylvania 16510

Defendant.

Civil No. 12-143

COMPLAINT FOR FEDERAL TAXES

PLAINTIFF, the United States of America, by and through its counsel, complains of defendant Patrick J. Leighton as follows:

1. This is a civil action in which the United States seeks to reduce to judgment the federal income tax assessment made against Patrick J. Leighton for tax year 2003 and the trust fund recovery penalties assessed against him for tax periods ending 3/31/2000 through 12/31/2001.

JURISDICTION AND VENUE

2. This action is commenced at the request and with the authorization of the Chief Counsel for the Internal Revenue Service, a delegate of the Secretary of the Treasury, and at the direction of the Attorney General of the United States, pursuant to 26 U.S.C. § 7401.

3. Jurisdiction over this action is conferred upon this Court by virtue of 26 U.S.C. § 7401 and 28 U.S.C. §§ 1340 and 1345.

4. Venue is proper in this district and division under 28 U.S.C. §§ 1391(b) and 1396 because defendant Patrick J. Leighton resides within this judicial district.

PARTIES

5. Plaintiff is the United States of America.

6. Defendant Patrick Leighton resides in Erie, Pennsylvania, within the jurisdiction of this Court.

COUNT I

REDUCE TRUST FUND RECOVERY PENALTY ASSESSMENTS TO JUDGMENT

7. The allegations set forth in paragraphs 1 through 6 are realleged and incorporated by reference as though fully set forth herein.

8. During the taxable quarters that ended 3/31/2000 through 12/31/2001, Patrick J. Leighton was the president of Professional Floor Care Systems, Inc. and as such was a person who was responsible for collecting, truthfully accounting for, and paying over to the Internal Revenue Service the Federal income, Social Security, and Medicare taxes that were withheld from the salaries or wages that were paid to the employees of Professional Floor Care Systems, Inc.

9. During the taxable quarters that ended 3/31/2000 through 12/31/2001, Patrick J. Leighton willfully failed to collect, truthfully account for, and pay over to the Internal Revenue Service the Federal income, Social Security, and Medicare taxes that were withheld from the salaries or wages that were paid to the employees of Professional Floor Care Systems, Inc.

10. Based on the foregoing, a delegate of the Secretary of the Treasury properly and timely assessed the following Trust Fund Recovery Penalties against Patrick J. Leighton for liabilities arising under section 6672 of the Internal Revenue Code (26 U.S.C.), in connection with the unpaid federal employment taxes for the taxable quarters described in paragraphs 8 and 9, above:

Tax Period	Date of Assessment	Amount of Assessment
3/31/2000	7/8/2002	\$7,024
6/30/2000	7/8/2002	\$4,382
9/30/2000	7/8/2002	\$7,571
12/31/2000	7/8/2002	\$10,718
3/31/2001	7/8/2002	\$10,632
6/30/2001	7/8/2002	\$10,981
9/30/2001	4/21/2003	\$12,300
12/31/2001	4/21/2003	\$13,016

11. Notice and demand for payment of the trust fund recovery penalty assessments described in paragraph 10, above, were properly made on Patrick J. Leighton.

12. Despite the notices and demands for payment of the trust fund recovery penalty assessments described in paragraph 10, above, Patrick J. Leighton has failed to fully pay the amounts due and owing.

13. By reason of the foregoing, Patrick J. Leighton is indebted to the United States for unpaid trust fund recovery penalties in the amount of \$125,544.63, as of July 30, 2012, plus interest and statutory additions accruing after that date.

COUNT II
REDUCE FEDERAL INCOME TAX ASSESSMENT TO JUDGMENT

14. The allegations set forth in paragraphs 1 through 13 are realleged and incorporated by reference as though fully set forth herein.

15. In accordance with 26 U.S.C. § 6203, a delegate of the Secretary of the Treasury of the United States made the following federal income tax assessment against Patrick J. Leighton:

Tax Period	Date of Assessment	Amount of Assessment
2003	5/31/2004	\$2,289

16. Notice and demand for payment of the tax assessment was properly made on Patrick J. Leighton.

17. Despite the notice and demand for payment of the tax assessment described in paragraph 15, above, Patrick J. Leighton has failed to fully pay the amounts due and owing.

18. By reason of the foregoing, Patrick J. Leighton is indebted to the United States for unpaid federal income taxes, interest, and penalties in the amount of \$238.10, as of July 30, 2012, plus interest and statutory additions accruing after that date.

WHEREFORE, the Plaintiff, the United States of America, prays:

A) As to Count I, that the Court grant judgment in favor of the United States and against Patrick J. Leighton in the amount of \$125,544.63, plus statutory additions to tax according to law accruing from July 30, 2012, until paid relating to the trust fund recovery penalties assessed against Patrick J. Leighton for tax periods ending 3/31/2000 through 12/31/2001;

B) As to Count II, that the Court grant judgment in favor of the United States and against Patrick J. Leighton in the amount of \$238.10, plus statutory additions to tax according to law accruing from July 30, 2012, until paid relating to the federal income tax assessments made against Patrick J. Leighton for tax year 2003; and

C) That the Court award such other and further relief, including the costs of this action, as may be deemed just and proper under the circumstances.

Dated: June 25, 2012

DAVID J. HICKTON
United States Attorney

KATHRYN KENEALLY
Assistant Attorney General

/s/ Katherine M. Walker

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